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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,907	12/16/2003	Frank Markus Rinderknecht	P24671	3889
7055	7590	01/20/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			KEENAN, JAMES W	
			ART UNIT	PAPER NUMBER
			3652	
DATE MAILED: 01/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,907

Applicant(s)

RINDERKNECHT, FRANK
MARKUS

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/14/05 (originally filed, but not entered, on 10/14/05) has been entered.
2. The drawing (figure 8) was received on 10/14/05. This drawing is not approved.
3. The amendment filed 10/14/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the material shown and described in new figure 8 is considered new matter because the original disclosure provided no support for any particular type of longitudinal adjustability of the swivel arms.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 17, 22, 24, 25, and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. First, the device would not work if only one swivel arm was longitudinally adjustable. If one swivel arm was longitudinally adjustable, all of them would have to be, because they are all connected by the connecting bridges 45, 46, and the connection pieces 47, 48. Furthermore, the disclosure fails to explain how or in what manner the swivel arms are longitudinally adjustable. They could be telescopically adjustable along their length (which is apparently what the new matter in figure 8 is meant to show), but the arms could also be adjustable relative to and along the longitudinal axis of the vehicle bed. Either of these possibilities (and perhaps others) is equally feasible based on applicant's original disclosure.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 14-17 and 19-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As noted in the previous Office actions, each of the independent claims is confusing and inaccurate. A complete and operative device is not set forth. Referring to claim 14 in particular, it is noted that swivel yokes (plural) are formed by at least one

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connecting bridge and swivel arms. This alone is indefinite in that one connecting bridge can not form plural yokes. More important, however, is the fact that connecting bridges 45 and 46 form swivel yokes with swivel arms pairs 40, 41 and 42, 43, respectively (see figure 6). The connection pieces 47, 48, however, form the claimed parallelogram swivel arm structures with swivel arm pairs 40, 42, and 41, 43, respectively. Thus, the same pairs of swivel arms do not form both the swivel yokes and the parallelogram swivel arm structures. However, applicant's claims require that the same swivel arms that form the yokes also form the parallelograms.

In claims 17 and 29, it is not clear what is meant by "longitudinally adjustable", nor is it clear how only a single "one of said ... arms" could be adjustable.

In claims 19 and 30, it is not understood how "said one of a curved and bent section" can be "formed by said ... connection piece" if the swivel arm is already set forth as "comprising one of a curved and bent section".

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 17, 22, 24, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher (US 3,276,610, previously of record) in view of Zatylny (US 4,687,402).

Thatcher, as noted in a previous Office action, shows swivel arms 26 connected to bridge 30 to form a swivel yoke, and swivel arms 88 connected to arms 26 by connection pieces 80 to form parallelogram structures, but the arms are not longitudinally adjustable.

Zatylny show a similar lifting device wherein swivel arms 25 are longitudinally adjustable not only by being telescopic along their length but also by being movable relative to and along the longitudinal axis of the vehicle bed.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel arms were longitudinally adjustable in one or both ways taught by Zatylny, as this would improve loading by allowing greater flexibility in the size and shape of articles to be lifted and/or their distance from the vehicle bed to be altered.

Re claim 29, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel axes lie on different heights relative to the bed, as this would merely be an alternate equivalent design expediency which would require no undue experimentation nor produce unexpected results.

10. Claims 19, 20, 23, 26, 27, and 30, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Thatcher in view of Olson (US 2,689,053, previously of record).

Thatcher does not show the swivel arm to form a bent or curved section.

Olson shows a similar lifting system with bent/curved arms 21.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Thatcher such that the swivel arms formed a curved or bent section, as shown by Olson, as this would simply be the substitution of a well known feature in the same environment. The limitation that the curved or bent section is formed by the connection piece is given no patentable weight as it contradicts other claim limitations, as noted above in the 112/2nd paragraph rejection.

11. Claims 14-16, 21, and 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.


12. Applicant's arguments filed 10/14/05 have been fully considered but they are not persuasive and/or moot in view of the new grounds of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
1/12/06